

R E M A R K S

Claims **1-61 and 63-68** are pending.

Claim **62** has been canceled

New claim **68** has been added.

Section 112 Rejections

Responsive to the rejection of claim **59** under 35 USC §112, second paragraph, that claim has now been corrected so as to be dependent on claim **58**.

Section 103 Rejections

Claims **1-61 and 63-67** were "rejected under 35 U.S.C. §103(a) as being unpatentable" over an asserted combination the Keithley and Ferguson references. Applicants respectfully traverse this rejection for the reasons given below.

Claim 1.

Claim **1** recites "*arranging for the homeowner to receive compensation in exchange for allowing the home information to be transmitted*". The compensation is "*based on compensation information associated with the home*". Claim **1** further recites the step of "*arranging for the home information to be transmitted to a viewer*".

As explained at page 24, lines 16-19 of the present application, the invention may, in addition to other advantages, create a market for homes that are not otherwise for sale, and may allow real estate brokers to better anticipate what potential buyers prefer in a home.

In its aspects that are most relevant to the present invention, the Keithley reference discloses a system which allows consumers to view real property advertisements including digitized pictorial graphics such as a photo of a house that is available for sale. Viewers may be billed for viewing the service on a time usage basis.

The Ferguson reference is generally concerned with a software development tool for developing online services. The development tool includes a "fee setter" subtool to specify fees that may be charged to or paid to users. More specifically, the fee setter subtool may be

used to arrange for charging fees to users and paying fees to users, as well as charging fees to content providers and paying fees to content providers.

In explaining the rejection of claim 1, the Examiner acknowledged that the Keithley reference does not disclose compensating the homeowner for providing information about a home. To make up for this deficiency in Keithley, the Examiner relied upon the teachings of Ferguson in regard to paying a content provider for providing information. The Examiner apparently considered the homeowner in the system of Keithley to be a content or information provider.

Applicants respectfully submit that, in proposing to combine the Keithley and Ferguson references, the Examiner improperly relied upon hindsight knowledge gleaned from the present application. Applicants respectfully urge that only by viewing Keithley in the light of teachings of the present application would a person of ordinary skill in the art consider that Ferguson's teachings regarding compensating content providers are relevant to Keithley's system.

The disclosure of Keithley generally presents the system disclosed therein as being an improvement and/or a further automation of a real estate multiple listing service (MLS). In multiple listing services, owners of properties are not compensated for placing a listing. Without hindsight derived from the teachings of the present application, the homeowners in a multiple listing system and in Keithley's system would only be viewed as advertisers, not "content providers". Indeed, Keithley specifically refers to the screen displays indicated in FIGS. 7 and 8 thereof as "advertisements" (see column 4, lines 51-55 of Keithley reference).

Nothing in the disclosure of the Keithley reference indicates that Ferguson's general teachings regarding compensating content providers are applicable to the particular case of displaying home information as taught by Keithley. Rather, Keithley would indicate to one of ordinary skill in the art that homeowners (or perhaps more specifically their real estate agents) are advertisers, and not content providers who might receive payment in a system such as that disclosed in the Keithley reference. There is no suggestion in the prior art that the teachings of Ferguson should be applied to the system of Keithley so as to convert the *paying* advertisers in Keithley's system into *paid* content providers. Such a proposed modification of Keithley's

system can only be derived from the teachings of the present application, and accordingly is the result of impermissible hindsight.

Applicants therefore respectfully submit that the references relied upon by the Examiner cannot properly be combined to produce the invention recited in claim 1, and that the rejection of claim 1 should be reconsidered and withdrawn.

Claims 2-51 are directly or indirectly dependent on claim 1 and are submitted as patentable on the same basis as claim 1. Furthermore, Applicants believe, for reasons set forth below, that many of the claims which are dependent on claim 1 recite features that provide additional grounds for patentability of those claims.

Claim 5.

In this regard, Applicants will first address claim 5, which recites the additional feature that "*the home is not for sale*". This feature is not taught or suggested by the references applied by the Examiner, whether considered alone or on combination.

The Keithley reference explicitly indicates that the home for which information is displayed as in FIGS. 7 and 8 of the reference is for sale (i.e., "listed with a Real Estate Agent").¹ Nothing in Keithley suggests that homes not for sale should be viewable through the system disclosed in the reference. Of course, the Ferguson reference is not concerned with real estate marketing, and does not in the slightest respect indicate that information should be transmitted to a viewer concerning a home that is not for sale.

In addressing claim 5, the Examiner referred to a passage in Keithley at column 10, lines 4-12 and column 7, lines 20-23 as allegedly disclosing "that a user may view real estate that need not be for sale". Applicants respectfully submit that these passages do not support such a characterization thereof. The passage at column 10, lines 4-12 indicates that information available through Keithley's system may be viewed by a user who is not necessarily interested in purchasing a property. However, this passage does *not* indicate that the properties viewed are not for sale. Similarly, column 7, lines 20-23 of Keithley indicates that the *viewer* "may not be interested" in purchasing the property. However, this passage does not in the slightest way suggest that the property is not for sale. Indeed, the passage indicates to the contrary.

Accordingly, it is believed that claim 5 is clearly patentably distinguished from the asserted combination of the Keithley and Ferguson references, since neither of those references, nor their combination, teaches *transmitting home information to a viewer with regard to a home that is not for sale*.

Claims 10 and 13 – 19.

Claims 10 and 13-19 each specify one or more further limitations in regard to the "compensation information" upon which the compensation to the homeowner is based.

In particular, each of claims 10 and 13-19 specifies that the compensation information includes or may include at least one of the following:

- "a popularity of a locale of the home".
- "a predicted level of interest in the home".
- "a quality of features of the home";
- "an appraised value of the home";
- "a potential selling price of the home";
- "a difference between the appraised value and the potential selling price";
- "a level of anonymity of the homeowner";
- "a level of anonymity of the locale of the home".

In explaining the rejection of these claims, the Examiner referred to certain passages in Keithley that allegedly deal with storing or withholding the types of information referred to in these claims. **However, the Keithley reference does not disclose employing such information as "compensation information" upon which compensation to the homeowner is based.** Indeed, the Keithley reference could not possibly disclose using that information or any other information as a basis for compensating a homeowner, since **Keithley does not disclose compensating a homeowner.**

Applicants therefore respectfully urge that claims 10 and 13-19 should be considered patentable independent of the patentability of claim 1.

Claim 28.

¹ Column 9, lines 40-42 of Keithley.

Claim 28 is dependent on claim 1 via intermediate dependent claim 24. Claim 24 recites the additional feature of "*charging the viewer a fee*". Claim 28 specifies that the fee "*is based on at least one of: (i) an appraised value of the home; (ii) a potential selling price of the home; and (iii) a difference between the appraised value and the potential selling price.*" None of these three bases for a viewer fee is taught or suggested by the references. The Keithley reference suggests, almost in passing, that viewers be charged "on a time usage basis" (column 13, line 1). No other basis for a viewer fee is taught or suggested by the Keithley reference.

The Ferguson reference, at column 30, lines 27-59, indicates a variety of bases for charging fees to viewers ("users"). However, none of these fee-setting considerations has anything to do with either an appraised value of a home or a potential selling price of a home.

It is therefore submitted that claim 28 is patentable independent of the patentability of claim 1.

Claim 33.

Claim 33 is also dependent on claim 24 and adds the limitation that the fee charged to the viewer "*comprises submission of viewer home information about a home owned by the viewer.*" Neither the Keithley nor Ferguson references (nor their combination) teaches or suggests that a viewer of the system pay for viewing rights by providing information about his or her home. Accordingly, claim 33 is submitted to be patentable independent of the patentability of claim 1.

Claim 47.

Claim 47 adds the limitations of "*receiving from the viewer an offer to purchase the home*" and "*storing the offer in a database*" through its dependency on claim 45. Claim 47 further specifies that "*the viewer remains anonymous to the homeowner*".

In this regard, Applicants observe that in the event an "End User" in Keithley's system offers to purchase a home viewed through the system, the real estate agent of the homeowner would be obligated to inform the homeowner of such offer, and that the end user accordingly would not "remain anonymous to the homeowner". The passage cited by the Examiner at column 7, lines 20-23 is not to the contrary. Rather, that passage, as noted before,

only indicates that a viewer may not necessarily be interested in purchasing the property. But if the viewer is interested, to the point of submitting an offer, certainly in Keithley's system, the homeowner would be informed of the viewer's identity. Accordingly, claim 47 is believed to be patentable independent of the patentability of claim 1.

New Claim 68.

New claim 68 is dependent on claim 1 and is submitted as patentable on the same basis as claim 1. Moreover, the above discussion of claims 10 and 13-19 is generally applicable to claim 68, since claim 68 specifies types of "*compensation information*" which are not taught or suggested by the references. Accordingly, claim 68 is believed to be patentable on grounds that are independent of the patentability of claim 1.

Independent claims 52, 53, 56-58, 63, 64, 66 and 67.

The remarks above in regard to claim 1 are also believed to be applicable to the rejected independent claims 52, 53, 56-58, 63, 64, 66 and 67. Accordingly, it is respectfully requested that the rejection of those claims be reconsidered and withdrawn.

Claim 55.

It is also noted that claim 55, which is dependent, indirectly, on claim 53, supports the same independent ground of patentability that was discussed in regard to claim 47.

Claim 60.

Claim 60, at least as now amended, is patentably distinguished from the references relied upon by the Examiner, since the references do not teach or suggest the feature of "*providing an offer to purchase a home to a home viewing system from a remote viewing device*". It is accordingly requested that the rejection of claim 60 be reconsidered and withdrawn.

Remaining Claims

The rejected claims which have not been expressly referred to above are all dependent claims, and are submitted as patentable on the same basis as their respective parent independent claims.

Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

Petition for Extension of Time to Respond

Applicants hereby petition for a **one-month** extension of time with which to respond to the Office Action. Please charge \$55.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

Respectfully submitted,



Dean Alderucci
Attorney for Applicants
Registration No. 40,484
Alderucci@WalkerDigital.com
203-461-7337 / voice
203-461-7300 / fax

August 26, 2002
Date



SPECIFICATION AMENDMENTS MARKED UP FORM

The paragraph beginning at page 10, line 21 has been amended as follows:

Information about the home (such as the number of bedrooms 432, the total square feet 434, the lot size 436, the number of bathrooms 438) is also stored in the record [in] associated with the home identifier 420. Additional features 440 of the home (e.g., whether the home has a pool) are also stored in the home database 400 along with location 442 information and a location rating 444 (e.g., a rating from A to C reflecting the quality of the location of the home). Of course, the location rating may not be stored in the home database 400 but may instead be stored in a separate database (e.g., a database correlating zip codes with location ratings), if desired.

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The paragraph beginning at page 22, line 21 has been amended as follows:

FIGS. 14A-B illustrate the steps of a process performed by a data processing system, such as remote home viewing system 100, for receiving an offer price from a viewer and notifying the homeowner of the viewer's interest in purchasing the homeowner's home.

The paragraph beginning at page 22, line 32 has been amended as follows:

In another embodiment, a homeowner names a price at which he would sell his or her home (and this price may be hidden from viewers). If a viewer offers at least as much as the homeowner's named price, the homeowner may be bound to sell his home. Alternately, a penalty is imposed on the homeowner if he refuses to sell his home (e.g., a percentage increase in the homeowner's mortgage is imposed). According to another embodiment of the present invention, a viewer [is] may also be bound when an offer is accepted by a homeowner. This may, of course, be contingent on the actual condition of the home as compared to the information about the home provided by the homeowner.

The paragraph beginning at page 24, line 9 has been amended as follows:

Thus, embodiments of the present invention let a homeowner [collect] receive payment(s) for agreeing to anonymously let information (e.g., a photograph and/or video images of the features of a home) about his home be provided to a viewer who may, in some cases, pay to receive information about not-for-sale homes that meet certain viewer-set criteria. The present invention may also help anticipate future homes that will be placed on the market. For example, if a homeowner is considering a job transfer that requires relocation, he or she may have an additional incentive to sell a home if the demand level for his home is already known. Thus, this invention may create a market for homes that are otherwise not for sale. Furthermore, viewers may use the system to formulate ideas and preferences for features of homes, and real estate brokers may better anticipate what potential buyers prefer in a home.

The paragraph beginning at page 24, line 31 has been amended as follows:

In one embodiment, viewers may send anonymous e-mails, via the central server, to the homeowners. These e-mails serve to convey general demand and can even be a request to see the homeowner's home. The homeowner can choose to respond to e-mails from viewers. The homeowner can also submit rules to the central server about criteria that viewers must fulfill before sending e-mail to the homeowner. For example, viewers who have been pre-approved for a mortgage amount that is above a predetermined amount (e.g., enough to purchase certain homes), would be able to inform a homeowner via e-mail of his interest in the homeowner's home. The central server could also store and collect demand for each home, and homeowners can access the collected demand when ready to sell. The central authority contacts viewers stored in association with the pre-approved mortgage and who have expressed interest in the newly available home.

**C L A I M A M E N D M E N T S
M A R K E D U P F O R M****Claims 59-61 and 65 have been amended as follows:**

59. (Amended) The method of claim [56] 58, wherein the home is not for sale and further comprising receiving an offer to purchase the home from a viewer of the picture.

60. (Amended) A method of viewing a picture of a home, comprising:
remotely viewing the picture of the home using a remote viewing device without receiving information identifying a homeowner of the home; [and]
providing to a home viewing system a payment in exchange for viewing the picture of the home; and
providing an offer to purchase the home to the home viewing system from the remote viewing device.

61. (Amended) The method of claim [58] 60, wherein said remotely viewing comprises remotely viewing a first picture and a second picture, and wherein the payment is provided in exchange for viewing the second picture and is not provided in exchange for viewing the first picture.

65. (Amended) The method of claim [62] 64, further comprising:
receiving from the viewer an offer to purchase the home, including an offer price;
and

determining if the homeowner will be notified of the offer based on the offer price and the information associated with the willingness of the homeowner to sell the home.